

W



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,454	02/27/2002	David W. Nelms	DSC-7A	1815
26116	7590	04/06/2006	EXAMINER	
SIDLEY AUSTIN LLP 717 NORTH HARWOOD SUITE 3400 DALLAS, TX 75201			DAVIS, CASSANDRA HOPE	
			ART UNIT	PAPER NUMBER
			3611	
DATE MAILED: 04/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/085,454	NELMS ET AL.	
	Examiner	Art Unit	
	Cassandra Davis	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34, 36-43 and 45-52 is/are pending in the application.
- 4a) Of the above claim(s) 39 and 46-49 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-31, 34 and 36-38 is/are allowed.
- 6) ☒ Claim(s) 32, 33, 40, 41, 43 and 50 is/are rejected.
- 7) ☒ Claim(s) 42, 45, 51 and 52 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

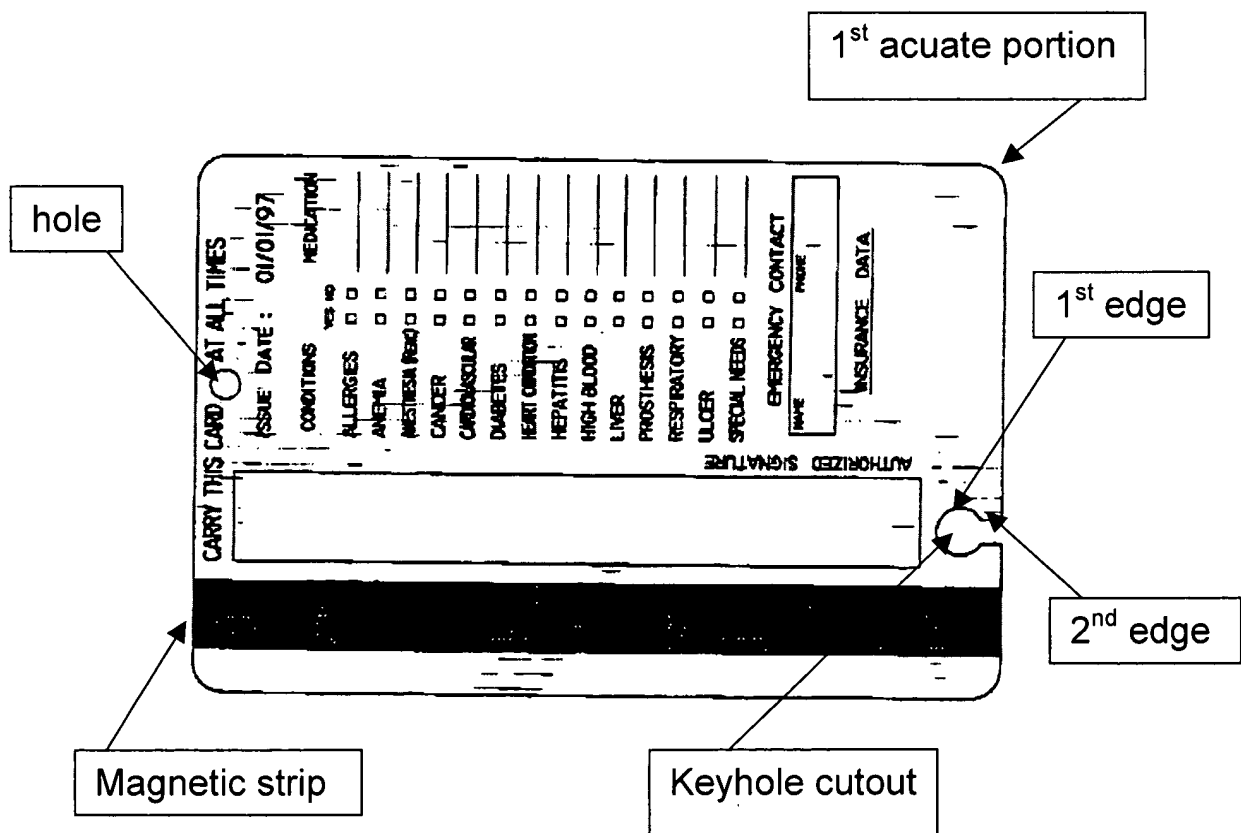
1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 32, 33, 40, 41, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neal, Jr. U. S. Design Patent 396,882 in view of Behram et al., U. S. Patent 5,499,293.

3. With respect to claim 32, Neal teaches a medical alert card comprising having an upper surface (figure 1) and a lower surface (figure 2). Each surface defining a surface area on oppositely oriented front and back faces of the card. Each surface being shaped with respect to a centerline along the surface and having a magnetic stripe along rear surface. The card has a first card end (corner) with an arcuate portion formed of a first card radius and an aperture formed therein to permit passage of a key chain loop there through, wherein the aperture is spaced from the centerline along the surface of the card.

4. Behram teaches credit card sized card which is encoded with unique code which positively identifies a patient. Such code may take the shape of bard codes, encoded magnetic strips or other media. See column1, lines 60-65. It would have been obvious to construct the medical alert card taught by Neal with a magnetic strip as taught by Behram to provide information about the card holder.



5. With respect to claim 33, Neal teaches the card has a second card end with at least one arcuate portion formed of a second card radius.

6. With respect to claim 40, Neal teaches an asymmetrical shaped card having an upper surface and a lower surface. Each surface defining a surface area on oppositely oriented front and back faces of the card, wherein each surface being asymmetrically shaped with respect to a centerline along the surface. Since the card has the keyhole shaped cutout on the left edge of the, the card is considered to be asymmetrical shaped. In addition, Neal teaches the card having a magnetic stripe along rear surface. Neal also teaches the card having a first card end with at two arcuate portions formed of a first card radius.

7. With respect to claim 41, Neal teaches each surfaces being asymmetrically shaped with respect to a horizontal centerline along the surface. The keyhole slot is below the horizontal centerline, thereby causing it to be asymmetrical.

8. With respect to claim 42, Neal teaches surface being asymmetrically shaped with respect to a vertical centerline along the surface. Since the card has the keyhole shaped cutout is on the left edge of the, the card is considered to be asymmetrical shaped.

9. With respect to claim 43, Neal teaches a non-rectangular, non-circular shaped card having an upper surface and a lower surface, wherein each surface defines a surface area on oppositely oriented front and back faces of the card. Each surfaces has at least two edges that do not form a 90-degree angle with respect to one another. The two edges are the surface associated with the keyhole cutout, wherein one edge corresponds to the circular edge of the cutout and second edge corresponding to the horizontal edge leading to the circular edge. Neal also teaches a magnetic stripe along the rear surface. The card having a first card end with at least one arcuate portion formed of a first card radius.

10. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gressette, U. S. Patent 3,318,311.

11. Gressette teaches credit card and card holder/case for use with an electronic payment mechanism comprising a card having an upper surface and a lower surface, each surfaces defining a surface area on oppositely oriented front and back faces of the card. Each surfaces being shaped with respect to a centerline along the upper and lower surfaces. Gressette also teaches the card having an aperture C formed therein to permit passage of a key chain loop there through, wherein the aperture being spaced from the

centerline. (note the applicant does not associate the aperture of the card with the structure of the case). The card being interposed between upper 18, 19 and lower 15 cover portions of an associated case, wherein the card is movable between the upper and lower cover portions from a closed position in which a majority of the upper and lower surface area of said card is enclosed by the upper and lower cover portions to an open position in which a majority of the upper and lower surface area of the card is exposed from the upper and lower cover portions to permit access to card. Gressette does not teach the credit card having a magnetic strip. The examiner takes Official Notice that credit cards with magnetic strips is old and well known in the art and would have been obvious to one having ordinary skills in the art to construct the credit card taught by Gressette with a magnetic strip to provide information about the card or card holder.

Allowable Subject Matter

12. Claims 1-31, 34, and 36-38 are allowed.
13. Claim 42, 45, 51, and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Election/Restrictions

14. Claims 39 and 46-49 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 4, 2003.


Response to Arguments

15. Applicant's arguments with respect to claims 40, 41, 32, 33, 43, and 50 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cassandra Davis
Primary Examiner
Art Unit 3611

CD
April 3, 2006